

## **REMARKS**

The Office Action dated December 1, 2008 has been received and reviewed. This response, submitted along with a Three-Month Extension of Time, is directed to that action.

Claims 1, 4, 7, 8, 10 and 14 have been amended to address formal issues related to the antecedent basis of the claim terms. No new matter has been added.

The applicant's respectfully request reconsideration in view of the foregoing amendments and the following remarks.

### **Claim Objections**

The Examiner objected to claims 4, 7, 8, 10 and 14 as lacking sufficient antecedent basis for certain claim terms. These claims, as well as claim 1, have been amended to provide proper antecedent basis, thus rendering the objection moot.

### **Claim Rejections- 35 U.S.C. §103**

The Examiner rejected claims 1-14 under 35 U.S.C. §103(a) as obvious over Ganesan et al. (US 2001/0033880 A1) in view of Bishov et al. (US 3,852,502) and further in view of Dake et al. (US 5,424,082), in light of Null (The Antioxidant Vitamin). The applicants respectfully traverse this rejection.

The applicants respectfully submit that a *prima facie* case of obviousness cannot be established against the presently claimed invention because a person of ordinary skill in the art would not have the motivation to combine or modify the references to achieve the presently claimed invention.

The presently claimed invention is directed to a method for the prevention of pacha-taint in CTC teas, wherein, during production of the tea, an emulsion of an antioxidant is homogenously sprayed onto fermented tea leaves. Ganesan's invention, on the other hand, is directed to a process for production of a tea that is soluble in cold water whereby tea leaves are sprayed with a solubilizing agent. Ganesan is only concerned with increasing cold water solubility, and is completely silent with respect to controlling and preventing off flavors in tea. Moreover, Ganesan never even suggests using synthetic antioxidants, such as BHA, as embodied in present claim 4.

Bishov only teaches that an antioxidant mixture can be emulsified with a protein to stabilize corn oil. Bishov's emulsion was never tested on other food products besides corn oil, and certainly never discusses its application in CTC teas. The skilled artisan would not look to Bishov for reference when trying to prevent off flavors in tea, because Bishov never mentions tea. Moreover, his emulsified mixture is used as a food additive, and is incorporated into another product, namely corn oil. Bishov does not use the emulsified antioxidant as a spray, which is applied to the exterior surface of a tea.

Dake and Null are directed to specific embodiments of the presently claimed invention, and do not remedy the deficiencies described above with respect to Ganesan and Bishov. Accordingly, the applicants respectfully submit that a *prima facie* case of obviousness cannot be established, and respectfully request that the Examiner withdraw the rejections.

Based on the foregoing reasons, the applicants submit that the presently claimed invention is in condition for allowance, and such favorable action is respectfully requested. If any issues remain, the resolution of which may be advanced through a

telephone conference, the Examiner is invited to contact the applicant's attorney at the number listed below.

**CONDITIONAL PETITION FOR EXTENSION OF TIME**

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully requests that this be considered a petition therefore. The Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

**ADDITIONAL FEE**

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

Respectfully submitted,

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